

Senate Engrossed

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**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 27

SENATE BILL 1303

AN ACT

AMENDING SECTIONS 38-431.01 AND 38-431.02, ARIZONA REVISED STATUTES; RELATING
TO PUBLIC MEETINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-431.01, Arizona Revised Statutes, is amended to
3 read:

4 38-431.01. Meetings shall be open to the public

5 A. All meetings of any public body shall be public meetings and all
6 persons so desiring shall be permitted to attend and listen to the
7 deliberations and proceedings. All legal action of public bodies shall occur
8 during a public meeting.

9 B. All public bodies shall provide for the taking of written minutes
10 or a recording of all their meetings, including executive sessions. For
11 meetings other than executive sessions, such minutes or recording shall
12 include, but not be limited to:

13 1. The date, time and place of the meeting.

14 2. The members of the public body recorded as either present or
15 absent.

16 3. A general description of the matters considered.

17 4. An accurate description of all legal actions proposed, discussed or
18 taken, and the names of members who propose each motion. The minutes shall
19 also include the names of the persons, as given, making statements or
20 presenting material to the public body and a reference to the legal action
21 about which they made statements or presented material.

22 C. Minutes of executive sessions shall include items set forth in
23 subsection B, paragraphs 1, 2 and 3 of this section, an accurate description
24 of all instructions given pursuant to section 38-431.03, subsection A,
25 paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by
26 the public body.

27 D. The minutes or a recording of a meeting shall be available for
28 public inspection three working days after the meeting except as otherwise
29 specifically provided by this article.

30 E. A public body of a city or town with a population of more than two
31 thousand five hundred persons shall:

32 1. Within three working days after a meeting, except for subcommittees
33 and advisory committees, post on its internet website, if applicable, either:

34 (a) A statement describing the legal actions taken by the public body
35 of the city or town during the meeting.

36 (b) Any recording of the meeting.

37 2. Within two working days following approval of the minutes, post
38 approved minutes of city or town council meetings on its internet website, if
39 applicable, except as otherwise specifically provided by this article.

40 3. Within ten working days after a subcommittee or advisory committee
41 meeting, post on its internet website, if applicable, either:

42 (a) A statement describing legal action, if any.

43 (b) A recording of the meeting.

44 F. All or any part of a public meeting of a public body may be
45 recorded by any person in attendance by means of a tape recorder or camera or

1 any other means of sonic reproduction, provided that there is no active
2 interference with the conduct of the meeting.

3 G. The secretary of state for state public bodies, the city or town
4 clerk for municipal public bodies and the county clerk for all other local
5 public bodies shall distribute open meeting law materials prepared and
6 approved by the attorney general to a person elected or appointed to a public
7 body ~~prior to~~ BEFORE the day that person takes office.

8 H. A public body may make an open call to the public during a public
9 meeting, subject to reasonable time, place and manner restrictions, to allow
10 individuals to address the public body on any issue within the jurisdiction
11 of the public body. At the conclusion of an open call to the public,
12 individual members of the public body may respond to criticism made by those
13 who have addressed the public body, may ask staff to review a matter or may
14 ask that a matter be put on a future agenda. However, members of the public
15 body shall not discuss or take legal action on matters raised during an open
16 call to the public unless the matters are properly noticed for discussion and
17 legal action.

18 I. A member of a public body shall not knowingly direct any staff
19 member to communicate in violation of this article.

20 J. ANY POSTING REQUIRED BY SUBSECTION E OF THIS SECTION MUST REMAIN ON
21 THE APPLICABLE INTERNET WEBSITE FOR AT LEAST ONE YEAR AFTER THE DATE OF THE
22 POSTING.

23 Sec. 2. Section 38-431.02, Arizona Revised Statutes, is amended to
24 read:

25 38-431.02. Notice of meetings

26 A. Public notice of all meetings of public bodies shall be given as
27 follows:

28 1. The public bodies of ~~the~~ THIS state, INCLUDING GOVERNING BODIES OF
29 CHARTER SCHOOLS, shall file a statement with the secretary of state stating
30 where all public notices of their meetings will be posted and shall give such
31 additional public notice as is reasonable and practicable as to all meetings.

32 2. The public bodies of the counties, school districts and other
33 special districts shall file a statement with the clerk of the board of
34 supervisors stating where all public notices of their meetings will be posted
35 and shall give such additional public notice as is reasonable and practicable
36 as to all meetings.

37 3. The public bodies of the cities and towns shall file a statement
38 with the city clerk or mayor's office stating where all public notices of
39 their meetings will be posted and shall give such additional public notice as
40 is reasonable and practicable as to all meetings.

41 4. The public bodies of the cities and towns that have an internet web
42 ~~site~~ WEBSITE shall post all public notices of their meetings on their
43 internet ~~web-site~~ WEBSITE and shall give additional public notice as is
44 reasonable and practicable as to all meetings. A technological problem or
45 failure that either prevents the posting of public notices on a city or town

1 ~~web-site~~ WEBSITE or that temporarily or permanently prevents the usage of all
2 or part of the ~~web-site~~ WEBSITE does not preclude the holding of the meeting
3 for which the notice was posted if all other public notice requirements
4 required by this section are complied with.

5 B. If an executive session will be held, the notice shall be given to
6 the members of the public body, and to the general public, stating the
7 specific provision of law authorizing the executive session.

8 C. Except as provided in subsections D and E OF THIS SECTION, meetings
9 shall not be held without at least twenty-four hours' notice to the members
10 of the public body and to the general public. THE TWENTY-FOUR HOUR PERIOD
11 INCLUDES SATURDAYS IF THE PUBLIC HAS ACCESS TO THE PHYSICAL POSTED LOCATION
12 IN ADDITION TO ANY INTERNET WEBSITE POSTING, BUT EXCLUDES SUNDAYS AND OTHER
13 HOLIDAYS PRESCRIBED IN SECTION 1-301.

14 D. In case of an actual emergency, a meeting, including an executive
15 session, may be held on such notice as is appropriate to the
16 circumstances. If this subsection is utilized for conduct of an emergency
17 session or the consideration of an emergency measure at a previously
18 scheduled meeting the public body must post a public notice within
19 twenty-four hours declaring that an emergency session has been held and
20 setting forth the information required in subsections H and I OF THIS
21 SECTION.

22 E. A meeting may be recessed and resumed with less than twenty-four
23 hours' notice if public notice of the initial session of the meeting is given
24 as required in subsection A OF THIS SECTION, and if, ~~prior to~~ BEFORE
25 recessing, notice is publicly given as to the time and place of the
26 resumption of the meeting or the method by which notice shall be publicly
27 given.

28 F. A public body that intends to meet for a specified calendar period,
29 on a regular day, date or event during ~~such~~ THE calendar period, and at a
30 regular place and time, may post public notice of ~~such~~ THE meetings at the
31 beginning of ~~such~~ THE period. ~~Such~~ THE notice shall specify the period for
32 which notice is applicable.

33 G. Notice required under this section shall include an agenda of the
34 matters to be discussed or decided at the meeting or information on how the
35 public may obtain a copy of such an agenda. The agenda must be available to
36 the public at least twenty-four hours ~~prior to~~ BEFORE the meeting, except in
37 the case of an actual emergency under subsection D OF THIS SECTION. THE
38 TWENTY-FOUR HOUR PERIOD INCLUDES SATURDAYS IF THE PUBLIC HAS ACCESS TO THE
39 PHYSICAL POSTED LOCATION IN ADDITION TO ANY INTERNET WEBSITE POSTING, BUT
40 EXCLUDES SUNDAYS AND OTHER HOLIDAYS PRESCRIBED IN SECTION 1-301.

41 H. Agendas required under this section shall list the specific matters
42 to be discussed, considered or decided at the meeting. The public body may
43 discuss, consider or make decisions only on matters listed on the agenda and
44 other matters related thereto.

1 I. Notwithstanding the other provisions of this section, notice of
2 executive sessions shall be required to include only a general description of
3 the matters to be considered. ~~Such~~ THE agenda shall provide more than just a
4 recital of the statutory provisions authorizing the executive session, but
5 need not contain information that would defeat the purpose of the executive
6 session, compromise the legitimate privacy interests of a public officer,
7 appointee or employee, or compromise the attorney-client privilege.

8 J. Notwithstanding subsections H and I OF THIS SECTION, in the case of
9 an actual emergency a matter may be discussed and considered and, at public
10 meetings, decided, ~~where~~ IF the matter was not listed on the agenda ~~provided~~
11 ~~that~~ AND a statement setting forth the reasons necessitating ~~such~~ THE
12 discussion, consideration or decision is placed in the minutes of the meeting
13 and is publicly announced at the public meeting. In the case of an executive
14 session, the reason for consideration of the emergency measure shall be
15 announced publicly immediately ~~prior to~~ BEFORE the executive session.

16 K. Notwithstanding subsection H OF THIS SECTION, the chief
17 administrator, presiding officer or a member of a public body may present a
18 brief summary of current events without listing in the agenda the specific
19 matters to be summarized, ~~provided that~~ IF:

20 1. The summary is listed on the agenda.

21 2. The public body does not propose, discuss, deliberate or take legal
22 action at that meeting on any matter in the summary unless the specific
23 matter is properly noticed for legal action.

APPROVED BY THE GOVERNOR JULY 9, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 9, 2009.